

REMARKS

Claims 1-13 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

SPECIFICATION

The first paragraph of the specification has been amended for purposes of grammar and sentence format only.

REJECTION UNDER 35 U.S.C. § 112

Claim 12 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. This rejection is respectfully traversed.

The Office Action indicates that the recitation in claim 12 of "apparatus provides control...Independent of a battery or external power source" contradicts the specification recitation of "power supplied from the first connector pin through connector 104 and lead 106 to lead 110 to a second connector pin so as to enable operation of a heating system". There is no contradiction between these statements, since the apparatus provides temperature-actuated switching, independent of a battery or external power source, of power to the HVAC system. The specification clearly states that when the temperature activated switching means is exposed to a predetermined temperature, a thermally actuated member mechanically switches to a closed position to complete a connection through the switching means (paragraph 8, sentence 5). An example of such a temperature actuated switching means is a 36T01 snap action switch, which is designed to close the switch at 75 degrees Fahrenheit (paragraph 9, sentence 4).

No where does the specification state or suggest that switching is accomplished by application of electrical power. Simply because power is supplied to a first connector of the apparatus does not mean that the apparatus itself uses that power. Rather, the apparatus simply connects a transformer power source for a heating system and a W connection corresponding to activation of the heating system (Paragraph 7, sentence 7). Specifically, temperature-actuated switching means 108 switches power from the first connector pin through connector 104 and lead 106 to lead 110 to a second connector pin so as to enable operation of the heating system (paragraph 8, sentence 4), where the temperature-actuated switching means is a thermally actuated member that mechanically switches (paragraph 8, sentence 5), independent of any electrical power. Thus, the specification clearly points out that the apparatus provides for control of temperature actuated switching of a heating system (or cooling system) independent of a battery or external power source. Claim 12 has been amended to clearly recite this limitation of a "temperature actuated switching" of an HVAC system independent of a battery, and as such, is not indefinite for failing to comply with the enablement requirement.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-11, and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by McFarlane et al (U.S. Pat. No. 5,107,918). This rejection is respectfully traversed.

With regard to claims 1, 4, 7 and 10, the Office Action states that McFarlane discloses "a temperature actuated switching means (140, 144, 146, 154, 156)" which comprises electrical sensors, A/D converter, relay drivers, and relays for providing switching for the thermostat. The present apparatus as claimed clearly is not

anticipated by such switching means, which require electrical power to achieve switch actuation. Regarding the present apparatus, the specification clearly states that when the temperature activated switching means is exposed to a predetermined temperature, a thermally actuated member mechanically switches to a closed position to complete a connection through the switching means (paragraph 8, sentence 5). Nowhere do the claims (or specification) state that switching is accomplished by application of electrical power. Rather, the apparatus uses a temperature-actuated switching means 108 to switch power from the first connector pin through connector 104 and lead 106 to lead 110 to a second connector pin so as to enable operation of the heating system (paragraph 8, sentence 4), where the temperature-actuated switching means is a thermally actuated member that mechanically switches closed (paragraph 8, sentence 5), independent of any electrical power. Thus, the present apparatus as claimed in claims 1, 4, 7 and 10 provides for temperature actuated switching of a heating system (or cooling system) independent of a battery or external electrical power source. Independent claims 1, 4, 7 and 10 have been amended to further include the limitation of "a temperature-actuated switch that actuates, independent of any electrical power, when exposed to an ambient temperature below a predetermined temperature". Applicants therefore believe that independent claims 1, 4, 7 and 10, as amended, are distinguished from McFarlane, and are allowable in view of the above amendment and remarks.

With regard to claims 2-3, 5-6, 8-9, 11 and 13, these claims depend from the above independent base claims, which applicants believe to be allowable. Thus, applicants submit that these claims are also not anticipated by McFarlane, and are allowable for at least the reasons present above.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7500.

Respectfully submitted,

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